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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,774	08/22/2001	Ronald Gary Godsey	8231	8938

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EXAMINER

SHAAWAT, MUSSA A

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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06/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/935,774	Applicant(s) GODSEY ET AL.	
	Examiner MUSSA A. SHAAWAT	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12,13 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-13 and 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to amendment filed on 03/18/2008. Claims 1-11 and 36 have been previously cancelled. Claims 14 and 24-35 have been cancelled. Claims 12-13, 15, 17, 18-19 and 21-23 have been amended. Claims 12-13, and 15-23 are pending examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 12-13, and 15-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeTemple et al., US Patent No. (5,572,653) referred to hereinafter as DeTemple in view of Busche US PG. Pub. No. (2003/0055707) referred to hereinafter as Busche.**

As per claim 12, DeTemple teaches a computer-implemented method for determining an effect of changing an environment parameter in a store environment, comprising: generating a first plurality of product container tracks through the store environment, each of the first plurality of product container tracks are followed by each of a first plurality of product containers to a point-of-sale location before one or more store environment parameters is changed (see at least col. 9 lines 45-65 and col.7); using RFID tags on the products and sensors sensing said tags (see col. 9 lines 55-65); and sending the data obtained from the plurality of tracks to a remote repository or

remote server or store server, where the remote server is remotely situated from a store (see col. 8 line67-col.9 line 2).

Although DeTemple teaches creating a plurality of product container tracks (i.e. tracks the path of shopping cart, which has an RFID affixed to it) and RFID tags affixed to products, he does not expressly teach a first plurality of product tracks being representative of when a product is placed into or removed from the product container and generating tracks at more then one store.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to generate another track using the RFID tags affixed to products taught by DeTemple due to the fact that DeTemple already teaches generating a track using the RFID tag affixed to the product container (see col.7 and col.9 lines 55-65) in order to provide the user with the ability to analyze the cause and effect of stimulus to sales. Regarding, generating tracks at more then one location, if tracks can be generating at one location as taught by DeTemple it would have been obvious to repeat the generation of tracks at another location in order to allow the user to compare customer behavior obtained from more then one store.

In addition, although DeTemple teaches a first plurality of tracks and that the data is being analyzed, manipulated sorted as a function of product location with a store environment, etc. (see at least col. 9 lines 43-45), DeTemple does not expressly teach changing store environment before and after generating plurality of tracks and analyzing the plurality of tracks to determine a relationship between the one or more environment parameters of the store and effect. However, Busche teaches changing store

environment before and after generating plurality of tracks and analyzing the plurality of tracks to determine a relationship between the one or more environment parameters of the store and effect (see at least Para 0058-0059 and 0078). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Busche into the disclosure of DeTemple in order to allow the user to compare sales data and customer behavior in relationship with changing the product position with a store environment.

As per claim 13, DeTemple does not expressly teach determining one or more coefficients using regression analysis to analyze selected product container tracks or product tracks. However, the examiner takes Official Notice that the use of regression analysis is old and well know in the art at the time the invention made. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of regression analysis into the disclosure of DeTemple in order to provide the user with a best fit data to asses customer behavior in a store.

As per claim 15, wherein the plurality of identification tags comprises active transmitters and the plurality of sensors comprises passive sensors for detecting radiation from the transmitters (col.7 lines 5-25).

As per claim 16 Gupta teaches a method of claim 12 wherein the store environment parameters comprise at least one of signage, end cap position, position of special promotion areas, position and type of informational kiosks, store-within-a-store areas, shelf configuration, lighting, flooring, scents, aisle length, aisle orientation, and aisle configuration, (see col.9 lines 40-45).

As per claim 17-19, DeTemple teaches determining validity of each of the first and second plurality of tracks before analyzing the plurality of tracks; wherein the validity of the plurality of tracks is determined with reference to whether the track includes any idle periods greater than a programmable time period and whether the product container track begins within starting region in the store environment (see at least col.7 lines 30-55, lines 60-65).

Re: claim 20, DeTemple teaches a method of claim 12 wherein the effect comprises sales of a particular item, (col.8 lines 20-29).

Re: claim 21, DeTemple teaches a method of claim 12 wherein the first and second plurality of product tracks are analyzed with reference to point-of-sale data generated at the point-of-sale location, (see at least, col.col.9 lines 30-40).

Re: claim 22, DeTemple teaches a method of claim 12 wherein the first and second plurality of product tracks are analyzed with reference to product placement data correlating particular products with physical locations in the store environment, (col.9 lines 21-45).

As per claim 23, Gupta teaches a method of claim 12 further comprising using heat signature data to generate at least some of the first and second pluralities of product tracks, (see at least col.5 lines 15-20).

Response to Arguments

4. Applicant's arguments have been fully considered but are moot in view of new grounds of rejection.

Contact Information

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form 892 for cited references.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mussa A. Shaawat whose telephone number is 571-272-2945. The examiner can normally be reached on Mon-Fri (8am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mussa A Shaawat/
Examiner, Art Unit 3627
June 11, 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627